



April 14, 2005

Morning Business:

214 years of Senate tradition reversed last session

Floor Speakers:

Senator Dole

Senator McConnell

Noteworthy:

"We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues don't like them, vote against them. But give them a vote." Senator Edward Kennedy, *Congressional Record*, 2/3/98

"The Chief Justice of the United States Supreme Court said: 'The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.' Which is exactly what I would like." — Senator Edward Kennedy, *Congressional Record*, March 7, 2000.

"The basic issue of holding up judgeships is the issue before us, not the qualifications of judges, which we can always debate. The problem is it takes so long for us to debate those qualifications. It is an example of Government not fulfilling its constitutional mandate because the President nominates, and we are charged with voting on the nominees." Senator Charles Schumer, *Congressional Record*, 3/7/00

Myth vs. Fact:

Myth: Senate Republicans are attempting to abolish all filibusters.

Fact: Republicans are seeking to restore the advice and consent constitutional obligations of the Senate for judicial nominees. Even though democrats have supported in the past abolishing all forms of filibusters.

In 1995, democrats (Bingaman, Boxer, Feingold, Harkin, Kennedy, Kerry, Lautenberg, Lieberman, and Sarbanes) wanted to end the legislative filibuster. In 1995, the only Senators on record supporting the end of the legislative filibuster were all Democrats, nine of whom are still serving in the Senate. (Karen Hosler, "Senators Vote 76-19 To

Maintain Filibuster,” *The [Baltimore] Sun*, 1/6/95; S.Res. 14, CQ Vote #1: Motion Agreed To 76-19: R 53-0; D 23-19, 1/5/95, Bingaman, Boxer, Feingold, Harkin, Kennedy, Kerry, Lautenberg, Lieberman, and Sarbanes Voted Nay on a motion to table the rules change; Frist Voted Yea)

- The Harkin-Lieberman proposal would have amended the Senate rules to allow a simple majority to overcome “any” filibuster, legislative or executive. (Karen Hosler, “Senators Vote 76-19 To Maintain Filibuster,” *The [Baltimore] Sun*, 1/6/95; S.Amdt. 1, Motion To Table Agreed To, 1/5/95)

Sen. Bill Frist (R-TN) is proposing to change the rule on filibusters of judicial nominations only. “Majority Leader Frist is threatening to use an obscure parliamentary maneuver – dubbed by some ‘the nuclear option’ – to change Senate rules and forbid filibusters against judicial nominees.” (John Yang, Op-Ed, “Fili-bluster,” *The Washington Post*, 1/16/05)

In fact, Senator Frist’s first Senate vote, on January 5, 1995, was to preserve legislative filibusters.

As Majority Leader, Sen. Robert Byrd (D-WV) initiated four precedents that allowed a simple majority to change Senate procedures without altering the standing rules.

- Sen. Robert Byrd, *Congressional Record*, 1977, pp. S31916-27;
- Sen. Robert Byrd, *Congressional Record*, 1980, pp. S4729-32;
- Sen. Robert Byrd, *Congressional Record*, 1979, pp. S31892-94;
- Sen. Robert Byrd, *Congressional Record*, 1987, pp. S12252-60